

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

NICHOLAS DEONTE JOHNSON, #1314913 §

VS. § CIVIL ACTION NO. 6:14cv267

DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

Petitioner Nicholas Deonte Johnson, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging a prison disciplinary case. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be denied because a protected liberty interest was not implicated by the disciplinary case. Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit. It is specifically noted that Petitioner's objections do not address the reason provided by the Magistrate Judge as to why the petition should be dismissed. "Federal habeas relief cannot be had absent the allegation by a plaintiff that he or she has been deprived of some right secured to him or her by the United States Constitution or the laws of the United States." *Malchi v. Thaler*, 211 F.3d 953, 957 (5th Cir. 2000) (citation and internal quotation marks omitted). Petitioner has a criminal conviction for an offense which makes him ineligible for release on mandatory supervision. The punishment imposed in Petitioner's disciplinary case does not involve a protected liberty interest under the Due Process Clause because he is not eligible for release on mandatory supervision. *Sanders v. Smith*, 111 F. App'x 752 n.1 (5th Cir. 2004). A right secured

to Petitioner by the United States Constitution or the laws of the United States is simply not involved in this case; thus, habeas corpus relief is unavailable. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 30th day of May, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE